

Appl. No. 09/643,686
Response dated May 8, 2004
Reply to Office Action of December 8, 2003

Remarks

Claims 2-19 and 22-27 are pending in the application, with claim 27 being the independent claim. Claims 24-26 have been withdrawn from consideration.

Based on the present Amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 2-19, 22, 23 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over WO 95/22754 to Lekkala et al. ("Lekkala") in view of U.S. Patent No. 5,885,530 to Babson et al. ("Babson").

Independent claim 27 recites a plurality of transmitters that cooperate with a common receiver. For this, the operation of the transmitters is synchronized such that the transmitters emit light rays one after another which can be evaluated one after another in the receiver following the admitting of the individual immunoassays.

The Action concedes that Lekkala does not disclose such a multiple arrangement of transmitters in which the transmitting light rays are pulsed successively to a receiver. Thus, claim 27 is not anticipated in or suggests itself on the basis of the Lekkala.

Furthermore, claim 27 does not suggest itself through a combination of Lekkala and Babson .

The Action states that a plurality of reaction tubes are analyzed in Babson, and that the receiver for the respective device, which is designed as photo multiplier, receives the signals from all reaction vessels.

However, contrary to the assertions of the Action, the sensor according to Babson, as well as the one in Lekkala, comprises only one transmitter and only one receiver. Reference is made to Figure 2A and the column 8, lines 30-47 and column 9, lines 29-58 of Babson. It is explained in these passages that the reading device (reading station 216) consists of a single transmitter (luminometer shutter) and a receiver (photomultiplier tube 216a), wherein respectively only one reaction vessel is analyzed in the reading station.

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Analyzing several reaction vessels is possible only by supplying the reaction vessels individually via a conveying mechanism to the reading station, so that these can be analyzed successively in the reading station.

This type of arrangement is distinguished by the present invention as defined by claim 27 in that several transmitters are provided and the transmitting rays of these transmitters simultaneously impinge on several reaction vessels and wherein the signals are then guided to one joint receiver.

The Action also alleges that it would be obvious to omit the plurality of receivers in Lakkala to result in the single receiver of claim 27. However, this approach utilizes impermissible hindsight reasoning and further ignores that the arrangement of claim 27 results in a different function from that of Lakkala and/or Babson. The present invention functions to synchronize transmitters, such that the transmitters successively emit light rays which can be successively evaluated in the receiver.

As such, it is respectfully submitted that claim 27 is allowable over Lakkala and Babson. Claims 2-19 and 22-26 depend from claim 27 and are allowable over the cited art.

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Conclusion

All of the stated grounds of rejections have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

A Notice of Allowance with claims 2-19 and 22-27 is respectfully requested.

Respectfully submitted,

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